

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

ORDER

v.

06-cr-40-bbc-1

ELGIN R. ALEXANDER,

Defendant.

A hearing on the probation office's petition for judicial review of Elgin R. Alexander's supervised release was held on July 31, 2012, before U.S. District Judge Barbara B. Crabb. The government appeared by Assistant U.S. Attorney Paul W. Connell. Defendant was present in person and by counsel, Associate Federal Defender Kelly A. Welsh. Also present was U.S. Probation Officer Shawn P. Robinson.

From the record and the parties' stipulation, I make the following findings of fact.

FACTS

Defendant was sentenced in the Western District of Wisconsin on July 21, 2006, following his conviction for felon in possession of a firearm, in violation of 18 U.S.C. § 922(g)(1). This offense is a Class C felony. He was committed to the custody of the Bureau

of Prisons to serve a term of imprisonment of 46 months, with a 36-month term of supervised release to follow.

Defendant began his term of supervised release on August 14, 2009. On July 15, 2011, he violated the mandatory condition prohibiting him from committing another federal, state or local crime when he was arrested for operating a motor vehicle while intoxicated - second offense, an unclassified misdemeanor in violation of Wis. Stat. § 346.63(1)(a). On May 14, 2012, he pleaded guilty and was sentenced to a 12-day jail term with work release privileges (Dane County Case No. 11CT1022). On January 1, 2012, he violated the mandatory condition prohibiting him from committing another federal, state or local crime when he was arrested for operating a motor vehicle while intoxicated - third offense, an unclassified misdemeanor in violation of Wis. Stat. § 346.63(1)(a). On June 19, 2012, he pleaded guilty and was sentenced to a 10-month jail term (Dane County Case No. 12CT124). The sentence was stayed and defendant was placed on probation for a term of two years. As a condition of probation he was ordered to serve 14 days in jail with work release privileges, with the jail time to run consecutively to the sentence imposed in Dane County Case No. 11CT1022.

Defendant's conduct falls into the category of a Grade C violation. Section 7B1.3(a)(2) of the advisory guidelines provides that the court has the discretion to revoke supervised release, extend it or modify the conditions of supervision.

CONCLUSIONS

Defendant's violations warrant revocation. Defendant's criminal history category is V. With Grade C violations, defendant has an advisory guideline term of imprisonment of 7 to 13 months. The statutory maximum to which defendant can be sentenced upon revocation is 24 months, under 18 U.S.C. § 3583(e)(3), which provides that a person whose term of supervised release is revoked may not be required to serve more than two years if the offense for which defendant was sentenced previously was a Class C felony.

After reviewing the non-binding policy statements of chapter 7 of the Sentencing Guidelines, I have selected a sentence within the guideline range. The intent of this sentence is to hold defendant accountable for his violations and to protect the community.

ORDER

IT IS ORDERED that the period of supervised release imposed on defendant on July 21, 2006, is REVOKED and defendant is committed to the custody of the Bureau of Prisons for imprisonment for a term of 4 months, with no supervised release to follow.

Defendant does not have the financial means or earning capacity to pay the cost of incarceration and supervision.

Entered this 31st day of July 2012

BY THE COURT:

/s/

Barbara B. Crabb

U.S. District Judge